



MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: March 17, 2006

RE: Septic Ordinance

It's finally here! The latest version of the Trinidad OWTS Ordinance is nearly ready for public hearings. The OWTS Advisory Committee (consisting of 2 Council members, 2 Planning Commissioners (Tom and Judy) and 1 member of the public) has been reviewing this ordinance over the past 8 months with grant funding from the State through Proposition 13. The first 5 sections are nearing completion. The enforcement section is currently being reworked and the definitions need some additions. At this point we want to reintroduce this ordinance that was drafted by the Planning Commission in 2001. Although many changes have been made since then, the basic outline for the program is the same. This ordinance is just one piece of the overall program, which includes water quality monitoring, OWTS inspections, maintenance requirements and public education. This ordinance will form the basis for the City's program, and will be supplemented with guidelines that detail exactly how the ordinance will be implemented (I will bring some additional information on how this will work to the meeting for your review.)

There are many details that need to still be worked out (most of the highlights within the ordinance are for small things such as section numbers, dates for compliance, etc.). At this point we want to get the Commission thinking about this ordinance again and putting it in context with other elements of the program. Please review this ordinance with a "big picture" point of view for this meeting. Consider the procedural steps and who will implement them. We want to make this ordinance as complete as possible with the goal of upgrading substandard septic systems and maintaining water quality, but also make it as easy as possible for the community to comply and even stand behind this ordinance. We want people to see that this ordinance will benefit the community as a whole by protecting not only the environment around Trinidad, but also individual property values and the economic health of the community. It is fine if much of this meeting is kind of a question and answer period, but I also want your input on any changes, additions, deletions, etc. you think should be made. This is only your first look, and there will be lots more opportunities for refinement in the future.

CITY OF TRINIDAD OWTS ORDINANCE

ARTICLE 1 – GENERAL PROVISIONS	2
Section 1:1 – Purpose	2
Section 1:2 – Jurisdiction	2
Section 1:3 – Authority (<i>to be added</i>)	2
Section 1:4 – Definitions (<i>more to be added</i>)	10
Section 1:5 – Adequate Sewage Disposal Required	2
Section 1:6 – Permits Required	3
Section 1:7 – Program Financing	3
ARTICLE 2 – CONSTRUCTION/REPAIR PERMITS.....	3
Section 2:1 – General.....	4
Section 2:2 – Building Alterations.....	4
Section 2:3 – Application Process.....	4
Section 2:4 – Design and Construction Standards.....	4
Section 2:5 – Licensing Requirements	4
Section 2:6 – Conformance and Final Inspections.....	5
Section 2:7 – Permit Expiration	5
ARTICLE 3 – PERFORMANCE INSPECTIONS	5
Section 3:1 – Initial Inspections for Existing Systems	6
Section 3:2 – Initial Inspection Schedule.....	6
Section 3:3 – Initial Inspection Reports and Database Development.....	6
Section 3:4 – Performance Inspections	6
Section 3:5 – Purpose for Performance Inspections	6
Section 3:6 – Performance Standards.....	7
Section 3:7 – Accessibility for Inspections	7
ARTICLE 4 – OPERATION PERMITS.....	7
Section 4:1 – General.....	7
Section 4:2 – Permit Fees	7
Section 4:3 – Permit Renewal	8
ARTICLE 5 – MAINTENANCE	8
Section 5:1 – Maintenance Schedule	8
Section 5:2 – Changes in Inspection or Maintenance Schedule.....	8
ARTICLE 6 – ENFORCEMENT	8
Section 6:1 – Investigative Powers	8
Section 6:2 – Immediate Need to Pump	9
Section 6:3 – Failure to Pump.....	9
Section 6:4 – Notice of Violation.....	8
Section 6:5– Failure to Repair	Error! Bookmark not defined.
Section 6:6 – Order to Reduce or Discontinue Use	Error! Bookmark not defined.
Section 6:7 – System Failure.....	9
Section 6:8 – Operating Permit Revocation	9
Section 6:9 – Stop Work Orders.....	9
Section 6:10 – Construction/ Repair Permit Revocation/Suspension.....	9
Section 6:11 – Failure to Pay Inspection or Pumping Bill.....	Error! Bookmark not defined.
Section 6:12 – Penalties	Error! Bookmark not defined.
Section 6:13 – Appeal Process	10
Section 6:14 – Severability	10

ARTICLE 1 – GENERAL PROVISIONS**Section 1:1 – Purpose**

The Trinidad City Council hereby finds the following:

On-site Wastewater Treatment Systems (*OWTS*) or septic systems are prone to failure with age, out-moded design, overuse or improper installation, repair and maintenance; many of the *OWTS* within the City of Trinidad are old and not to current standards.

OWTS failure poses a risk to public health, safety and welfare and a potential contamination source to the surface waters, groundwater and the ocean waters within or adjacent to the City of Trinidad.

A centralized sewer system is undesirable for Trinidad because of growth-inducing impacts and unfeasible due to the high costs of construction and maintenance.

OWTS are a cost-effective and long term option for meeting public health and water quality goals and standards as long as they are adequately managed.

The purpose of this ordinance is to assure all *OWTS* in Trinidad are properly operated, regularly inspected, routinely maintained and monitored to prevent malfunctioning systems and to establish a basis for an *OWTS* Management Program that will supplement this ordinance with specific policies and implementation measures consistent with the purposes of this ordinance.

Section 1:2 – Goals and Objectives

Trinidad is a unique town, surrounded by significant coastal resources, important to the town, the surrounding community and the State. Trinidad Harbor is a State designated Area of Special Biological Significance and Critical Coastal Area. Trinidad is blessed with healthy sport and commercial fishing fleet and is surrounded by State Parks, public beaches, tribal lands and working forest lands. Trinidad has a rich and diverse historic fabric, with the Tsurai Village site is one of the most well documented culturally significant areas in the State. Although small, the City has very dense development and small lots for a rural community on septic systems, and a large influx of visitors throughout the year. This is compounded by the fact that more than half the systems in town are old or of unknown status. This puts the environment in and around Trinidad at substantial risk of pollution from failed and inadequate septic systems. The City has an obligation to protect its citizens and the environment now and in the future to the maximum extent practicable and set a higher standard for *OWTS* than may be necessary in other places. Therefore, this ordinance was developed to meet that goal. The specific objectives of this ordinance are to ensure the proper maintenance and operation of *OWTS* within the City, as well as to require appropriate upgrades of substandard systems.

Section 1:3 – Jurisdiction

This chapter/ordinance shall apply to all territory embraced within the incorporated limits of the City of Trinidad, County of Humboldt, State of California.

Section 1:4 – Authority (to be added)**Section 1:5 –Liability**

This chapter shall not be construed as imposing upon the City any liability or responsibility for damage resulting from the defective installation of any sewage disposal system or part thereof as herein provided, nor shall the city or any official, employee or city-designated contractor thereof be held as assuming any such liability or responsibility by reason of the inspections or work authorized herein.

Section 1:6 – Construction / Interpretation

- A. Unless the context otherwise requires, the definitions set forth in Appendix A of this ordinance, as may be amended from time to time, shall be used in the interpretation and construction of this chapter. Words used in the present tense include the future, the singular number shall include the plural, the plural shall include the singular, and the word “shall” is mandatory. Words that are defined in Appendix A are italicized herein.
- B. This ordinance should be supplemented with guidelines to aid in the interpretation and implementation of the ordinance. The Guidelines will not have the force of statute, and may be amended as needed by staff in conjunction with the Planning Commission and shall be made a part of this ordinance as Appendix B.

Section 1:7 – Adequate Sewage Disposal Required

Every person owning, leasing, occupying or using any building designed or used for *human habitation*, including commercial and public buildings, shall be required to provide and maintain a properly functioning *OWTS*. An *OWTS* shall provide for the disposal of sewage in a manner that does not create a public health hazard and does not degrade surface or groundwater quality. All *OWTS*, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition at all times. The owner, lessee, occupant, user, or his or her designated agent, shall be responsible for the maintenance of such systems. Where permitted, an *OWTS* shall be provided for each building designed for human habitation, except that a group of detached buildings, occupying land under one or more ownerships and having a legally shared area in common, may be serviced by a single individual sewage disposal system designed to meet those collective needs.

Section 1:8 – Permits Required

It is unlawful for any person to connect to, construct, repair, replace, reconstruct, maintain, and/or use any *OWTS* in this jurisdiction except as provided for in this ordinance and unless an applicable construction/repair permit from the *Health officer* and/or operating permit from the *OWTS Administrator* is obtained.

Section 1:9 – Permit Fees / Program Financing

The City Council, in a manner prescribed by law, may by resolution establish and alter fees and charges for receiving applications, holding hearings thereon, reviewing plans and specifications, performing inspections, monitoring *OWTS* and water quality and issuing permits, and for performing any other service for maintaining and administering the *OWTS* Management Program established pursuant to this ordinance. Said fees shall be sufficient to offset the cost of implementing the program, including monitoring. No *OWTS* shall be constructed, repaired, replaced, maintained, or operated until all such fees have been paid.

The City Council shall establish a fee schedule to be assessed each owner of an *OWTS* / holder of an operating permit. Said fee shall be based on the total number of *OWTS* in the *OWTS* Management Program and the administrative and technical costs associated with providing the services herein. Fees will be paid when permit applications are received for issuance or renewal. Any funds collected or raised for purposes of implementing the *OWTS* Management Program shall be for the exclusive use of said program implementation and operation and shall be maintained in an account separate from the City’s general fund.

Section 1:10 – Program Administration / OWTS Administrator

The City *OWTS Administrator* shall be responsible for coordinating activities between the City, the *Health Officer*, the *Qualified Service Provider*, and the homeowner, for keeping a list of *Qualified Service Providers*, for receiving homeowner’s surveys and inspection reports, for upkeep of the database, for issuing operating permits and for assuring provisions of this ordinance are being met or taking the necessary steps to assure the purposes of this ordinance are being met. Initially this will be the City Planner until such time the City Council designates an alternative to fulfill this role.

Section 1:11 – Health Officer – Regulations

The Health Officer shall issue such regulations as deemed necessary to carry out the provisions of this chapter. Any such regulations issued by the Health Officer shall:

1. Be consistent with the intent and purpose of this ordinance;
2. Recognize the most current technical information relevant to the provisions of this Chapter;
3. Provide for exceptions where a strict application of this chapter or regulations issued by the Health Officer would inflict a substantial personal hardship upon the occupants of the building or place in question;

4. Be designed to minimize and eliminate public nuisance hazards or the potential thereof;
5. Recognize that any single sewage disposal system is in reality a subunit of a larger disposal system comprised of numerous subunits.

Regulations issued by the Health Officer under this section shall become effective when adopted by resolution of the City Council. Regulations issued under this section may be amended from time to time by resolution of the City Council. Regulations issued under this section shall be available to the public in booklet form at a fee to be determined by the City Council.

Section 1:12 – Subdivisions

Prior to the approval of any subdivision or lot line adjustment, the applicant must apply for and obtain approval from the Health Officer for the design of an OWTS for each lot adequate for the use for which the property is designed.

ARTICLE 2 – CONSTRUCTION/REPAIR PERMITS

Section 2:1 – General

No person shall construct, reconstruct, or undertake any repair, addition, or upgrade of any *OWTS* or any portion thereof on any property within the City Limits without having first obtained a permit to do so from the Health Officer. This provision shall not apply to emergency work necessary due to the immediate failure of an existing system, when it shall be proved to the satisfaction of the Health Officer that such work is urgently necessary and that it is not practical to obtain a permit before commencement of the work. In all such cases, prior approval shall be obtained from the Health Officer and an application for permit must be submitted within three business days after commencement of the work. Minor maintenance, as defined in Appendix A (Definitions), may be made without permit.

Section 2:2 – Building Alterations

Whenever any person makes application to the City for a coastal development permit or a building permit for the purpose of making any alterations to, or enlargement of any structure which meets the definition of "*New Construction*" as set forth in Appendix A, said applicant must demonstrate that the existing septic system meets the requirements set forth in this Ordinance. Determination of whether or not a system substantially complies with this code is within the joint discretion of the OWTS Administrator and the *Health Officer*.

Section 2:3 – Transfer of Property

Upon transfer or sale of property within the City of Trinidad, the OWTS for that property shall be assessed for its compliance with current standards of the Trinidad Sewage Disposal Regulations. If the OWTS is determined to be *substandard system*, or if it was determined to be function at less than an adequate level at the time of the most recent inspection, than upgrades to current standards shall be required prior to a full operating permit being issued for the new owner. Exceptions may be made by the Health Officer for special circumstances such as if the lot is too small to accommodate a conventional system.

Section 2:4 – Application Process

Each application for a permit to construct or repair an *OWTS* shall be made on a form provided by the *Health Officer* and accompanied by the appropriate fee as set forth in **Section --**. The application shall not be considered complete until all the information requested by the Health Officer has been submitted. The Health Officer may require changes to the proposed design of a system in order to conform to applicable regulations. The Health Officer shall take action to approve or deny an application within 60 days of a complete application submittal. A written record of the Health Officer's decision shall be provided to the applicant. **Appeals** shall be in accordance with **section --**. A permit to construct or repair shall expire if work has not started within one year of permit approval and / or has not passed final inspection within two years of permit approval, unless an extension is granted by the Health Officer.

Section 2:5 – Licensing Requirements

All *OWTS* within the City Limits shall be designed by a *qualified professional* as deemed adequate by the *Health Officer*. All work done pursuant to a construction/repair permit shall be done by or under the supervision of a person holding an

appropriate license or other qualification, such as a contractor pursuant to state law. The owner may be authorized to perform *minor maintenance*, which work is to be performed in a manner that will not endanger the public health nor violate any laws, ordinances, or regulations.

Section 2:6 – Design and Construction Standards

The siting, design and construction of new, and the repair of existing *OWTS*, shall be in accordance with current standards of the *Trinidad Sewage Disposal Regulations* and criteria of the North Coast Regional Water Quality Control Board Basin Plan.

Section 2:7 – Leachfield Protection

Construction related activities are to occur in a manner that does not impact the integrity of the primary or reserve sewage disposal areas. The leachfield area shall be staked and flagged to keep equipment off the area. Alternatively, a written description of techniques/timing to be utilized to protect the system will be required from the builder. If the existing system area is impacted by construction activities, an immediate Stop-Work Order will be placed on the project. The owner or builder will be required to file a mitigation report for approval by the *OWTS Administrator* and *Health Officer* prior to permitting additional work to occur. A Copy of the report is to go to the building official and into the project file.

Section 2:8 – Reserve Area Required

All new and upgraded *OWTS* shall be required to receive approval from the Health Officer for a suitable 100% reserve leachfield area. As part of any application for design review, coastal development permit or any other discretionary permit, the applicant may be required to receive approval for a suitable 100% reserve area at the discretion of the Health Officer (**Guidelines**). Exceptions in extreme circumstances where a reserve area can not be located, may be granted by the Health Officer at their discretion. The City may alter the terms of, or deny, a discretionary permit based on limitations in locating a reserve area.

Section 2:9 – Effluent Filters/Risers

All new *OWTS* shall be required to install risers at all access points and an effluent filter as part of the construction. All existing *OWTS* shall be required to be equipped with risers at all access points and an effluent filter prior to the first scheduled performance inspection (**see §--**) as dictated by the *OWTS* Operating Permit.

Section 2:10 – Roof Drainage away from *OWTS*

All roof drainage downspouts on new construction shall be directed in such a manner that it does not impact any components of an *OWTS*.

Section 2:11 – Landscaping

Landscaping shall not be allowed to interfere with *OWTS* components, including the tank and leachfield area. No trees or shrubs that grow over six feet tall shall be planted within 10 feet of any system component.

Section 2:12 – Deed Restrictions

As part of the approval of any coastal development permit for *new construction*, the property owner(s) shall be required to record a statement on the deed, in a form approved by the City Attorney, indicating that any increase in the number of bedrooms above that approved by the City, or in excess of the design capacity of the *OWTS*, will require City approval of adequate sewage disposal capabilities.

Section 2:13 – Conformance and Final Inspections

In addition to any inspections performed by the designer, all work for which a construction/repair permit is required shall be subject to, at the minimum, a final inspection by the *Health Officer* or his representative in order to determine if such work conforms to the approved application, plans and specifications. The number of inspections required shall be determined by the *Health Officer* and shall be based on the complexity of the design and site conditions. All such work shall remain accessible and exposed for inspection purposes until inspected and approved and it shall be the responsibility

of the owner or authorized agent to assure that required inspections are obtained. Should such work not be accessible for inspection, neither the City nor its employees and officers shall be liable for the expense entailed in the removal or replacement of any material required to allow inspection. A survey of the parcel may be required to verify that the construction work is located in accordance with approved plans. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or other laws, ordinances or regulations. In the event that the Health Officer determines that there has been an improper installation or repair, a stop-work-order may be posted on the job site. Before any further work is done on the site, clearance from the Health Officer must be obtained.

ARTICLE 3 – PERFORMANCE INSPECTIONS

Section 3:1 – Initial Inspections for Existing Systems

All existing *OWTS* three years or older at the time this ordinance is adopted, and which have not had an inspection within the last three years, shall be subject to an initial on-site inspection by the *Qualified Service Provider* or its designee at the expense of the homeowner. The purpose of this inspection is to assess the condition of the *OWTS* and provide the City with the technical and background information needed to determine the maintenance requirements for each system within the City limits, and/or the need for system upgrade or replacement. Maintenance requirements shall be based upon inspection results.

Section 3:2 - Initial Inspection Schedule

Initial inspections for all *OWTS* within City limits shall be completed by July 2007. The *OWTS Administrator* shall specifically notify property owners of the requirements of this ordinance and encourage early inspections in areas such as critical resource areas, areas with old and/or unpermitted *OWTS*, areas with a history of failure, high seasonal use or frequent pumping. Voluntary inspections completed between July 2005 and the time this ordinance is adopted shall count towards meeting this requirement.

Section 3:3 – Initial Inspection Reports and Database Development

A standard *OWTS* inspection form shall be developed by the *OWTS Administrator* and a record maintained by the City for each *OWTS* inspected. The homeowner shall provide the *OWTS Administrator* and / or *Qualified Service Provider*, with any pertinent information that the homeowner (or its septic pumper or installer) has regarding the use, age, location, maintenance history, design, etc of the *OWTS*. The completed inspection form shall contain sufficient information upon which to base the maintenance and/or upgrade requirements for the *OWTS*. It shall also include information as to when each *OWTS* has been inspected and pumped and indicate when it should be inspected or pumped again. Using this and other available information, the City shall develop and maintain a database of all *OWTS* within the City limits.

Section 3:4 – Performance Inspections

Performance inspections shall be conducted by a *Qualified Service Provider* at the expense of the owner to check the performance of the system relative to normal operating criteria, public health and water quality standards as outlined in this ordinance and the *OWTS Guidelines* (Appendix B). These inspections shall be conducted prior to, or at the time of pumping as determined by the maintenance schedule outlined in Article 5. Written results of performance inspections shall be provided to the property owner and shall be kept on file with the City. Results may be appealed in accordance with the appeal procedures of section 6.7 of this ordinance.

The purpose of a periodic inspection as provided in Section 3.4 herein above shall be to determine how well the *OWTS* is functioning in treating effluent. Factors that may be evaluated include, but are not limited to the design of the system, the nature and quantity of flow of wastewater entering the system, the condition and effectiveness of the components, the quality and condition of the soils into which wastewater is discharged, the quality and nature of the groundwater receiving the discharge as well as the quality and quantity of the wastewater discharge.

Section 3:5 – OWTS Monitoring Program

A water quality monitoring program shall be developed as part of the City's *OWTS* Management Program. The monitoring program shall include sampling of surface and groundwater and coastal seeps around town. Where an inspection indicates that an *OWTS* is not functioning properly or water quality sampling indicates that there may be a problem, sampling wells

may be required to be installed by the property owner in and around the OWTS as part of the issuance and terms of an operating permit.

Section 3:6 – Performance Standards

During a performance inspection, the *OWTS Administrator* shall determine whether the OWTS adversely affects the public health and environment or violates any other applicable rules or regulations. This evaluation shall determine whether the OWTS structure and its operational status are in substantial conformance with the standards of this Ordinance, the City's OWTS Management Program **Guidelines** and the North Coast Regional Basin Plan and other applicable laws and regulations. If deemed necessary by the *OWTS Administrator*, water samples shall be collected and analyzed in conformance with the City's approved monitoring program. OWTS repairs and upgrades shall be required if it the *OWTS Administrator* or *Health Officer* determines that the OWTS is not functioning in accordance with this ordinance and / or the City's overall OWTS Management Program or other applicable laws and regulations.

Section 3:7 – Accessibility for Inspections

OWTS shall remain accessible at all times. For all systems, this shall include inspection covers at finished grade (ground surface) on the tank with risers installed to the depth of the tank. If these conditions are not met on an existing system at the time of the initial inspection, then covers and risers shall be required prior to the time of the next scheduled performance inspection, or a new operating permit shall not be issued. The owner shall maintain the OWTS so that it is readily accessible for inspection and maintenance. The placement of structures, swimming pools, patios, driveways, or other impervious surfaces over the septic tank or leachfield is prohibited. Exceptions for unusual circumstances may be considered by the *Health Officer*.

ARTICLE 4 – OPERATING PERMITS

Section 4:1 – General

Upon completion in conformance with this code and final inspection of work performed pursuant to a *construction / repair permit*, or following *initial / performance inspections* of existing systems, an *operating permit* for each OWTS within the City shall be issued. An operating permit shall be required in addition to any other permits required for construction. After July 2007, it shall be illegal to use or operate any OWTS within the City without a valid *operating permit* from the City. Said *operating permit* shall be conditioned upon the proper maintenance and pumping of, and the continued proper operation of the OWTS as designed and constructed, upon payment of periodic permit fees and inspection fees, upon periodic inspections of said OWTS, and upon continuation of the use for which the system was designed or capable of. Every operating permit shall indicate the design capacity of the system and maintenance requirements. The operating permit is contingent on maintaining the appropriate level of use of the OWTS. A copy of said operating permit, with conditions, shall be sent to the property owner and shall be kept on file with the City. Operating Permit conditions may be appealed in accordance with **[REDACTED]**.

Section 4:2 – Application Process

The property owner questionnaire / individual lot assessment completed as part of the initial and / or performance inspections shall constitute an application for an OWTS Operating Permit. The Operating Permit shall be issued to the owner of the property and / or the business owner.

In the event of the sale of the property or change in business occupancy, a new Operating Permit shall be applied for by the new owner / occupant within 30 days of the finalization of the sale of the property or occupancy of business. Homeowners associations will be considered the owner of the property for condominiums and townhouses for the purpose of enforcement of this code if the actual owner is not responsible for the OWTS. An administrative fee, as set by resolution of the City Council, may be charged to offset the costs to the City for transferring permits. An abbreviated operating permit, for a limited amount of time, shall be issued in cases where upgrades or repairs are required at the time of property transfer according to this ordinance.

Every person owning, leasing, occupying or using any building designed or used for *human habitation*, including commercial and public buildings, shall be required to apply for an Operating Permit through the City Clerk's office prior to **July 1, 2007**, or earlier, if required by the OWTS Administrator due to the proximity of the system to surface waters,

history of failure, inadequate groundwater separation, inadequate soil conditions, hazardous geologic conditions or other conditions that may cause the system to negatively impact the health and safety of the community or the environment.

The level of management / maintenance required by conditions of the Operating Permit will be established by the *OWTS Administrator* based on the type of system and the level of risk to the public health and safety and the environment by the system. Such risks shall be evaluated based on the performance inspection report and property owner questionnaire / application.

Section 4:3 – Permit Renewal

Operating permits are to be renewed after a *performance inspection* by a *qualified service provider* at an interval as specified in the *operating permit* and maintenance schedule (see Article 5). The process for renewing operating permits shall be the same as for the original application as set forth in section _____. Fees shall be the same as for a new operating permit. *Operating permits* must also be renewed or transferred within 30 days of a transfer of property, or, in the case of commercial properties, upon change of occupants. Unless otherwise required by the OWTS Administrator or Health Officer, a performance inspection is not required in order to transfer an operating permit. The transferred operating permit shall have the same expiration date as the original, but the maintenance requirements may be changed based on the stated planned use of the property. The new property owner or commercial occupant may choose to apply for a new operating permit with a new performance inspection at their discretion.

ARTICLE 5 – MAINTENANCE

Section 5:1 – Maintenance Schedule

The *Health Officer* and / or *OWTS Administrator* shall determine the maximum period for the maintenance and pumping requirements for each system. The basis for maintenance schedules shall be detailed in the *OWTS Guidelines* (Appendix C) and shall consider things such as, but not limited to, the size and design of the tank, number of bedrooms, age of system, proximity to streams and other sensitive resources, and the results of performance inspections. Following each inspection of an *OWTS* by the *qualified service provider*, the *OWTS Administrator* will be given a report indicating the condition and the recommended maintenance requirements of that particular system. Maintenance schedules shall be stipulated in the operating permit. When it is time for a system to be reinspected, the system's owner will be notified by the *OWTS Administrator* of the need to do so. Such inspection shall be arranged by the owner with a *qualified service provider*, within thirty (30) days of the stipulated date. Once inspected, a completed inspection form by a *qualified service provider* must be presented to the *OWTS Administrator* by the homeowner or business owner. This form shall include information regarding the condition of the system and changes that have occurred since the last inspection and any other pertinent information. The resulting maintenance schedule determined by the *OWTS Administrator* shall supersede any pre-existing City maintenance schedule that may be in effect.

Section 5:2 – Changes in Inspection or Maintenance Schedule

The *OWTS Administrator*, with due cause and upon written notification to the landowner, may change the inspection and/or maintenance requirements and schedule of an *OWTS*, where such a change is deemed necessary for the proper functioning of the *OWTS*. This may occur due to circumstances such as changes in household occupancy, seasonal use, rental status, water consumption, system functioning, site characteristics or other significant elements of the inspection report.

Likewise, the homeowner may petition the *OWTS Administrator* to alter the inspection and/or maintenance schedule. The owner must demonstrate, through the use of appropriate site data and household information, that such a change in the requirements would still ensure the proper operation of the *OWTS* and fulfill the intent of this ordinance. Information to be used by a homeowner in the petition may include *OWTS* inspection records, technological upgrades and site data such as soils, water table, household information, seasonal use, water use, etc.

ARTICLE 6 – ENFORCEMENT

Section 6:1 –Public Nuisance Declared

A failed OWTS, as defined in section 1:4 is hereby declared a public nuisance and subject to Trinidad's Nuisance Abatement Ordinance. In addition, an OWTS being operated or used without the proper operating permit, or being constructed, altered or repaired without the appropriate construction / repair permit is hereby declared a public nuisance.

Section 6:2 – System Failure

If an inspection and / or pumping record or other information reveals a malfunctioning or failing *OWTS*, the *Health Officer's* and / or *OWTS Administrator* shall immediately commence nuisance abatement procedures. Failed systems constitute an immediate threat to public health and safety, and summary abatement may be appropriate. Abatement of failing systems shall include short-term mitigation and permanent corrective measures. At a minimum, short-term mitigation shall include immediate pumping as outlined in section 5.3, reduction of effluent flows and the posting of any areas subject to the surfacing of inadequately treated sewage effluent. Permits for repairs of failing systems may be expedited by the *Health Officer* or *OWTS Administrator* by waiving some of the permit requirements or making some retroactive.

Section 6:6 – Order to Reduce or Discontinue Use

Whenever any parcel or building regulated by this code is being used contrary to the provisions of this code or discharge of waste emanates there from in violation of this code, the *Health Officer* and / or *OWTS Administrator* may order such use or discharge discontinued or reduced, and / or the parcel or building or portion thereof vacated by serving a notice on any person causing such use to be continued. Such person shall discontinue the use and / or vacate the parcel or building or portion thereof within the time prescribed within the notice.

Section 6:2 – Immediate Need to Pump

If an inspection reveals that an *OWTS* needs immediate pumping, the *Health Officer* shall send the owner, or owner's agent a written notice allowing the owner, or owner's agent, five (5) days to pump the system and to present evidence of such pumping to the Health Officer in the form of a receipt from an approved [licensed?] septage hauler or pumpier.

Section 6:3 – Failure to Pump

If proof of system pumping ordered under Sec. 5:1 is not received by the Health Officer within 30 days of the time frame within which a non-emergency system was to be pumped, or within the five days ordered under Sec. 5:3, the *OWTS Administrator* will hire a private hauler to pump the *OWTS* and the owner will be billed by the City. The bill will include the actual cost of pumping as well as associated administrative costs. The owner will be notified in writing of the intended date and time of such pumping.

Section 6:9 – Stop Work Orders

Whenever any maintenance, repair, replacement, or new construction work is being done contrary to the provisions of this code or other pertinent laws or ordinances implemented through the enforcement of this code, the *Health Officer* and / or *OWTS Administrator* may order the work stopped by notice in writing served on any such person engaged in doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Health Officer and / or *OWTS Administrator* to proceed with the work.

Section 6:8 – Operating Permit Revocation

When it has been determined that an *OWTS* for which an operating permit has been issued is operating in violation of this code, operating in a manner not consistent with its design (such as frequently exceeding the design average or maximum daily flow rate), or is discharging wastewater in a manner which is, or may result in, the contamination of surface water, ground water, or the contiguous seashores of the City, or which contains components that do not conform to this code, or to which access for inspection has been denied, the operating permit may be revoked upon written notice to the owner. If the owner, upon receipt of said notice revoking the discharge permit does not appeal as provided in Section 6:12 herein below, or upon appeal the City Council determines that the revocation shall be upheld, a failed system citation shall be issued to the owner and recorded with the County of Humboldt thirty days from the date of Permit Revocation.

Section 6:10 – Construction/ Repair Permit Revocation/Suspension

- A. Any OWTS construction/repair permit may be revoked or suspended by the *Health Officer and / or OWTS Administrator* if it is determined that a violation of this ordinance or the *Trinidad Sewage Disposal Regulations* exists or that the permit was obtained by fraud, misrepresentation or material omission. Prior to revoking or suspending the permit, the *Health Officer and / or OWTS Administrator* must cause written notice to be mailed to the permittee and to the occupant of the property. The notice shall specify the violation(s) and the work to be done to correct the violation(s) and shall allow thirty days to complete the work. The notice shall also inform the permittee that he/she has the right to an informal hearing before the *Health Officer and / or OWTS Administrator*.
- B. The notice of revocation or suspension shall inform the permittee of his right to a hearing before the City Council if the permittee files an appeal with the City Council pursuant to section 6:12.
- C. The suspension or revocation of any permit shall not be effective until ten days after notice thereof in writing is mailed to the permittee.

Section 6:00 – Second Units

Section 6:00 – Pit Systems and other Substandard OWTS

Section 6:13 – Appeal Process

- A. Any person affected by an approval, denial, suspension, or revocation of a construction/repair or operating permit (or stop work or failure etc.) by the *Health Officer and / or OWTS Administrator* may appeal to the City Council by filing a notice of appeal with the clerk of the City within thirty days of the action of the *Health Officer and / or OWTS Administrator*. The notice of appeal shall be accompanied by a filing fee set by resolution of the City Council of the City on an amount sufficient to cover costs. The appeal shall stay the effect of the action of the *Health Officer and / or OWTS Administrator*.
- B. The appeal shall be in writing and addressed to the City Council. The applicant shall file a copy of the appeal with the *Health Officer and / or OWTS Administrator* on the day of filing with the clerk of the City. In the notice of appeal the appellant shall state in full the facts and circumstances which make the action of the *Health Officer and / or OWTS Administrator* unreasonable. It shall also state the date of the claimed unreasonable action of the *Health Officer and / or OWTS Administrator*.
- C. The City Council shall cause the matter to be set for hearing not earlier than twenty days after the appeal has been filed with the clerk of the City. The Clerk of the City shall cause notice to be mailed to all affected persons (within 300 feet of the property boundaries) at least ten days prior to the hearing.
- D.
 - 1. At the time and place set for the hearing, the City Council shall proceed to hear the testimony of the *Health Officer and / or OWTS Administrator*, the testimony of the owner or his representatives, and the testimony of other competent persons concerning condition upon which the action of the *Health Officer and / or OWTS Administrator* is based and other matters which the City Council may deem pertinent. Any person affected may be present at such hearing, may be represented by council, may present testimony, and other witnesses. The hearing may be continued from time to time.
 - 2. The *Health Officer and / or OWTS Administrator* may be represented by counsel. At the request of the *Health Officer and / or OWTS Administrator*, the City Attorney shall represent the *Health Officer and / or OWTS Administrator*.
- E. “Any person affected” shall include but not be limited to the applicant or his agent, the owner of the affected property or his agent, and the owners or their agents of all adjoining properties to the property against which the action of the *Health Officer and / or OWTS Administrator* is directed.
- F. The City Council may upon the appeal either affirm the action of the *Health Officer and / or OWTS Administrator* or grant an exception to the provisions of this ordinance, regulations issued by the *Health Officer and / or OWTS Administrator* or the *Trinidad Sewage Disposal Regulations* upon which the action under appeal is based. The decision of the City Council upon on appeal shall be based upon the facts presented to it.

Section 6:14 – Severability

If any provision of this ordinance or any rule or determination made hereunder, or application hereof to any person, agency or circumstances is held invalid by a court of competent jurisdiction, the remainder of this ordinance and its application to any person, agency or circumstance shall not be affected thereby. The invalidity of any section or sections of this ordinance shall not affect the validity of the remainder of this ordinance.

Section 6:1 – Investigative Powers

Representatives of the City or *Health Officer*, after providing at least a seven day notice and upon exhibiting proper credentials and identification, shall be permitted to enter private property during normal business hours to inspect, investigate and take samples related to the performance of the *OWTS* as required by the provisions of this ordinance. If necessary under the circumstances, an inspection warrant may be obtained pursuant to Title 13 of Part 3 of the Code of Civil Procedure to obtain right of entry for such purposes.

Section 6:4 – Notice of Violation

If upon inspection or other information any owner of an *OWTS* is determined to be in violation of these regulations other than pumping, a written notice shall be issued by the *OWTS Administrator* explaining the nature of the violation, required actions, a reasonable time frame for compliance, and the possible consequences for noncompliance.

Section 6:5– Failure to Repair

In the case of a violation, if the *OWTS* owner fails to accomplish the required repairs within the time schedule established, the *OWTS Administrator* will take appropriate enforcement action. The City may have the work done themselves and bill the owner.

Section 6:11 – Failure to Pay Inspection or Pumping Bill

Failure to pay a bill incurred by the City for the inspection, pumping or other work required by this ordinance that is a responsibility of the owner of the *OWTS*, may result in a fine and/or a lien on the owner's property. The *OWTS* owner shall be responsible for all associated administrative and court costs.

Section 6:12 – Penalties

Any person, firm or corporation who violates or refuses to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished upon conviction by a fine of not less than twenty-five dollars nor more than five hundred dollars or by imprisonment on the county jail for not more than six months or by both such fine and imprisonment.

Section 1:4 – Definitions (*move to back*)

Addition or Upgrade: Partial or total replacement of a septic system that is functioning properly.

Bedroom. Any space in the conditioned (heated) area of a dwelling unit which is 70 square feet and greater in size and which is an exterior room shall be counted as a bedroom unless it is one of the following:

- Hall
- Bathroom
- Kitchen
- Living Room (maximum of one per dwelling unit)
- Dining Room (opening off of the kitchen or living room, maximum of one per dwelling unit)
- Family Room (opening off of the kitchen or living room, maximum of one per dwelling unit)
- Breakfast Nook (opening off kitchen, maximum of one per dwelling unit)
- Pantry (maximum of one per dwelling unit)
- Laundry Room
- Closet/Dressing Room opening off of a bedroom.

Sewing rooms, dens, offices, studios, lofts, game rooms, and any other exterior room 70 square feet and greater in size shall be counted as bedrooms regardless of whether they are entered through a door, unless the room is otherwise exempted.

The City Planner may grant exceptions if, in his/her discretion, a room cannot, by its design, function as a bedroom.

Construction / Repair ~~Permit~~

Failed System: Any sewage disposal system that does not adequately treat and dispose of sewage that consequently creates a public or private nuisance or threat to public health and/or environmental quality, as evidenced by, but not limited to, one or more of the following conditions;

- (1) Failure to accept sanitary sewage into the *OWTS*.
- (2) Discharge from an individual *OWTS* of wastewater either directly or indirectly to a subsurface drain, surface drain, wetland, or surface water body.
- (3) Effluent rising to the surface of the ground over or near any part of an *OWTS* or seeping down-gradient from the absorption area at any change in grade, bank or road cut.
- (4) Discharge of improperly treated effluent to ground or surface waters resulting in contamination of ground and/or surface waters due to contaminants or nutrients.
- (5) Inadequate treatment and disposal of wastewater due to deterioration, damage, or improper design of any *OWTS*. (For example inadequate separation distance from the bottom of the leaching system to groundwater or impervious layer, damage from a vehicle driven over a leachfield, etc.)
- (6) Pumping records that indicate very frequent septic tank pumping. A system shall be considered in need of repair or alteration if the system has been pumped or in need of pumping two or more times in a calendar year and if not pumped the *OWTS* would result in effects described above.

Health Officer: The City's Health Officer or designated representative. This shall be defined as staff from the Humboldt County Division of Environmental Health Department unless or until such time that the City Council designates its own Health Officer. References to Health Department shall also mean Health Officer.

Human habitation:Person

Qualified Service Provider: is a qualified professional or an individual with knowledge and competency in *OWTS* operation, maintenance, and monitoring, determined by the City to be qualified to perform septic inspections in the City.

Qualified service provider through... (AB885)

Major Repair. Any kind of alteration or replacement of a malfunctioning individual sewage disposal system except those defined as minor repairs or minor maintenance.

Minor Maintenance. Replacement of septic tank baffles, tees, ells, tops, or sewer lines.

Minor Repair. Replacement of septic tank, installation of greywater sump, or other minimal repair work requiring a minor repair permit as determined by the Health Officer.

New construction: shall mean the construction of a new building, or the construction of an addition to, the alteration of, or the remodeling of an existing building which results in an increase in habitable space or other heated or otherwise conditioned space within the building. Further, the construction of any new structure within a setback from a component of a wastewater disposal system required at the time the system was installed shall be deemed to be "new construction." "Conditioned Space" shall mean living space in a residence or detached building that is insulated and/or is provided with the ability to be heated or cooled. Unheated garages and workshops are examples of non-conditioned space.

On-site Wastewater Treatment System (OWTS): A system installed to provide sanitary sewage disposal by means other than discharge into a sewer system.

-or-

Onsite sewage treatment systems: includes individual disposal systems, community collection and disposal systems, and alternative collection and disposal systems that use subsurface disposal. The short form of the term is singular or plural, as appropriate. (AB 885)

-or-

Individual Sewage Disposal System. means a septic tank and drainfield or other approved means of sanitary disposal of sewage. This may include any of the following types of systems: (Santa Cruz)

- a. **Conventional System.** An individual sewage disposal system which utilizes a septic tank (with or without a lift pump) and leaching trenches or pits.
- b. **Standard System** A conventional system which is constructed in accordance with the specifications for a standard system as described in Sections 7.38.095 through 7.38.180 of this Chapter.
- c. **Nonstandard System.** A system which is not in conformance with all the standards contained in Sections 7.38.095 through 7.38.180 of this Chapter. Nonstandard systems include alternative systems, nonconforming systems, and haulaway systems.
- d. **Nonconforming Sewage Disposal System.** A conventional sewage disposal system design that provides for insufficient leaching area as described in Section 7.38.150.a.3, that is in soils that percolate in the range 60 - 120 MPI, that requires seasonal haulaway of effluent to function properly and meet required groundwater separation, or which is not in compliance with other requirements for a standard system contained in Sections 7.38.095 through 7.38.180. Use of a nonconforming system requires use of water conservation devices.
- e. **Alternative System.** An individual sewage disposal system which uses nonconventional technology for enhanced effluent treatment and/or disposal.
- f. **Haulaway System.** An existing individual sewage disposal system, for which the Health Officer has ordered that the outlet of the septic tank, or other sewage holding container, be permanently or seasonally sealed, and the accumulated sewage pumped out and hauled away to an approved disposal site.

Operating Permit: A permit issued by the OWTS Administrator based on site performance.....

Sewage: Waste substance, liquid or solid, which is associated with human habitation or which contains, or may be contaminated with human or animal excretion or excrement, offal or feculent matter, or matters or substances that may be injurious or dangerous to health.

Substandard System

Qualified professional: is an individual who, by virtue of education, training, and experience, is qualified to perform soil and/or site evaluations and the design of OWTS. A qualified professional is capable of determining site-specific soil properties, geologic factors, and hydrologic conditions. (AB885)

Qualified service provider: is a qualified professional or an individual with knowledge and competency in OWTS operation, maintenance, and monitoring through... (AB885)

Trinidad Sewage Disposal Regulations consists of the Humboldt County Division of Environmental Health Departments "Sewage Disposal Regulations", as updated from time to time, unless or until such time that the City Council adopts their own Sewage Disposal Regulations.

OWTS Administrator shall be responsible for coordinating activities between the City, the *Health Officer*, the *Qualified Service Provider*, and the homeowner, for keeping a list of *Qualified Service Providers*, for receiving homeowner's surveys and inspection reports, for upkeep of the database, for issuing operating permits and for assuring provisions of this ordinance are being met or taking the necessary steps to assure the purposes of this ordinance are being met. Initially this will be the City Planner until such time the City Council designates an alternative to fulfill this role.

Inspector: